

# **EXHIBIT A**

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4 UNITED STATES DISTRICT COURT  
5 CENTRAL DISTRICT OF CALIFORNIA  
6 SOUTHERN DIVISION

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8 THE HONORABLE JAMES V. SELNA, JUDGE PRESIDING

9 UNITED STATES OF AMERICA, ) CERTIFIED TRANSCRIPT  
10 Plaintiff, )  
11 vs. ) SACR-19-00061-JVS  
12 MICHAEL JOHN AVENATTI, )  
13 Defendant. )  
14 -----)

15 (Per telephonic conference)

16 REPORTER'S TRANSCRIPT OF PROCEEDINGS

17 Santa Ana, California

18 April 27, 2020

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SHARON A. SEFFENS, U.S. DISTRICT COURT REPORTER

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1 SANTA ANA, CALIFORNIA; MONDAY, APRIL 27, 2020; 9:00 A.M.

08:49 2 (Per telephonic conference)

09:00 3 THE CLERK: Item No. 1, SACR-19-00061-JVS, United  
09:00 4 States of America versus Michael John Avenatti.

09:00 5 Appearances from the government, please.

09:00 6 MR. ANDRE: Good morning, Your Honor. Julian  
09:00 7 Andre and Brett Sagel on behalf of the United States.

09:00 8 MR. STEWARD: Good morning, Your Honor. Dean  
09:00 9 Steward for Mr. Avenatti. He has a waiver on file but is  
09:00 10 with us by telephone.

09:00 11 THE COURT: Good morning. This is Judge Selna.

09:00 12 Preliminarily I find that it is appropriate to  
09:00 13 conduct this status conference via telephone given the  
09:00 14 current circumstances. As noted, Mr. Avenatti has a waiver  
09:00 15 of physical presence and is also on the line.

09:00 16 I would also note on the docket a telephone  
09:00 17 call-in number and the access code were public. I find that  
09:00 18 that meets the public's interest in being able to monitor  
09:01 19 and listen to this proceeding. I find that the public's  
09:01 20 interest has been satisfied given these unusual  
09:01 21 circumstances.

09:01 22 Okay, let's proceed. We have apparently in place  
09:01 23 a schedule which leads to a trial at the end of the summer.

09:01 24 My first question is what is the status of  
09:01 25 discovery?

09:01 1 MR. ANDRE: Your Honor, this is Julian Andre.

09:01 2 The status of discovery is largely the same as it  
09:01 3 was in the report we filed on February 18, 2020. The  
09:01 4 Privilege Review Team did complete the productions to the  
09:01 5 defense that we had identified in that report in early  
09:01 6 March 2020. So at this point the defense should have either  
09:02 7 access to all the devices or the materials that the  
09:02 8 Privilege Review Team identified as being within the scope  
09:02 9 from the devices such as the server or EA Employee 1  
09:02 10 computers that were found at that residence.

09:02 11 We do anticipate there may be some additional  
09:02 12 discovery in terms of materials that are generated in  
09:02 13 preparation for trial, and we anticipate that the  
09:02 14 prosecution team as to materials that have been released to  
09:02 15 us will be providing some additional productions. Those  
09:02 16 will be largely duplicative of the materials that the  
09:02 17 defense already has access to.

09:02 18 THE COURT: Mr. Steward.

09:02 19 MR. STEWARD: Yes, Your Honor. We have a couple  
09:02 20 of issues. One of them and the most important from my  
09:02 21 perspective is that Mr. Avenatti has been unable to review  
09:02 22 anything since his arrest back in January, so we have in  
09:03 23 essence lost about three-and-a-half months where he has been  
09:03 24 unable to work on this case at all. The logistics of  
09:03 25 getting him material and information in his current

09:03 1 situation I am thinking about and going to try and come up  
09:03 2 with some solutions.

09:03 3 We also have a protective order in place on a  
09:03 4 great deal of material. Him being able to review the  
09:03 5 various devices is again something that I'm trying to figure  
09:03 6 out what's the most expeditious way to do it giving him  
09:03 7 access and at the same time recognizing the constraints of  
09:03 8 the protective order.

09:03 9 In terms of the material that is in Los Angeles  
09:03 10 with the filter team, specifically we had looked at e-mails  
09:04 11 some months back on two different occasions, and how we're  
09:04 12 going to accommodate that now I'm not sure. What we did the  
09:04 13 very first time was to give their IT person a list of names.  
09:04 14 They ran those names and gave us whatever e-mails were  
09:04 15 attached to those names. We may be able to do something  
09:04 16 similar now, not just names but also organizations or dates  
09:04 17 or whatever, but that needs to be worked out as well.

09:04 18 I will say that the filter team has been very  
09:04 19 accommodating. Unfortunately, they only have one IT guy for  
09:04 20 their entire office, which is the Los Angeles Office of the  
09:04 21 Criminal Division of the IRS, so the poor gentleman is  
09:04 22 stretched pretty thin. But they have been cooperative, and  
09:04 23 my intent is to work with them in the coming days and try to  
09:05 24 get whatever it is that Mr. Avenatti and I feel is relevant  
09:05 25 and helpful to the defense.

09:05 1 That's kind of where we are right now. We're  
09:05 2 going to take it at a day at a time and do the best we can,  
09:05 3 and we will see where we are.

09:05 4 MR. ANDRE: Your Honor, this is Julian Andre. May  
09:05 5 I respond briefly to a couple of points raised by Mr.  
09:05 6 Steward?

09:05 7 THE COURT: Go ahead.

09:05 8 MR. ANDRE: First of all, with respect to the  
09:05 9 protective order -- and I believe we put this in a response  
09:05 10 to their continuance request -- there is nothing in the  
09:05 11 protective order that precludes the defendant from accessing  
09:05 12 any of these materials.

09:05 13 I would also note that in the conditions of  
09:05 14 release that the government proposed and the defendant  
09:05 15 agreed to there were certain ways that he would still be  
09:05 16 able to review materials. I also don't think it's accurate  
09:06 17 to say that it was impossible for Mr. Avenatti to review  
09:06 18 discovery or work on this case since January. I just wanted  
09:06 19 to raise this point because there should be not be any  
09:06 20 impediment to Mr. Avenatti being able to review materials in  
09:06 21 this case. He has had quite some time with these materials.

09:06 22 THE DEFENDANT: Your Honor, this is Mr. Avenatti.  
09:06 23 Is it appropriate for me to provide some background  
09:06 24 information?

09:06 25 MR. STEWARD: No, Mr. Avenatti, it is not. This

09:06 1 is Mr. Steward. I'm going to ask you not to speak.

09:06 2 THE DEFENDANT: Okay.

09:06 3 THE COURT: Mr. Steward noted that the defense had  
09:06 4 lost three-and-a half months. I also note that we pushed  
09:06 5 the trial out.

09:06 6 In terms of the preparation for trial. I think I  
09:06 7 would like to schedule another status conference at the  
09:07 8 beginning of June.

09:07 9 MR. SAGEL: This is Brett Sagel. I believe we  
09:07 10 have one on June 1.

09:07 11 THE CLERK: We have one on May 26 that I have down  
09:07 12 for a telephonic conference at 8:00 a.m. I will look at the  
09:07 13 docket and confirm, but that's what I have.

09:07 14 MR. SAGEL: The date that I have that was in the  
09:07 15 last order is we have expert disclosures on May 26 and then  
09:07 16 a status conference at 9:00 a.m. on June 1.

09:07 17 THE CLERK: I also have one on June 1. Clearly we  
09:07 18 wouldn't need both of them.

09:07 19 THE COURT: Let's just go to the June 1 date.

09:07 20 Mr. Steward, what is the status of the case in  
09:08 21 New York that has yet to go to trial?

09:08 22 MR. STEWARD: I believe the trial date is in July.

09:08 23 Mr. Avenatti, on this one, I will let you speak.  
09:08 24 Is that right as to our trial date on that one?

09:08 25 THE DEFENDANT: Yes. The Court vacated the prior



09:08 1 trial date and set that trial date in July and is expecting  
09:08 2 I believe a status report from counsel, both the government  
09:08 3 and my defense counsel, in May noting whether that trial  
09:08 4 date is realistic in light of everything that's going on,  
09:08 5 including the current stay-away or lockdown orders, et  
09:08 6 cetera, in New York City.

09:08 7 MR. STEWARD: Thank you, Mr. Avenatti.

09:08 8 THE COURT: The deadline for filing motions is  
09:08 9 coming up. Can you give me a preview however brief about  
09:09 10 what you anticipate in terms of pretrial motions? The  
09:09 11 government.

09:09 12 MR. ANDRE: Your Honor, this is Julian Andre.

09:09 13 Currently we anticipate filing at least two  
09:09 14 pretrial motions. We will be filing a motion to introduce  
09:09 15 other acts evidence. These are on the basis that it was  
09:09 16 part of the charged conduct but was not specifically  
09:09 17 identified in the Indictment and is inextricably intertwined  
09:09 18 with charges in the Indictment or is admissible under  
09:09 19 404(b). We provided the defense with a very detailed notice  
09:09 20 explaining what evidence we would seek to introduce on I  
09:09 21 believe February 4 of this year. So that will be the first  
09:09 22 motion.

09:09 23 We also are likely going to move to exclude --  
09:09 24 well, we may move to exclude any sort of advice of counsel  
09:10 25 defense. We have raised this issue with defense counsel

09:10 1 well over about two months ago whether they intended to  
09:10 2 present any sort of advice of counsel defense for any of the  
09:10 3 charges. We have not yet heard a response. Unless they  
09:10 4 provide us with reciprocal discovery and identify that they  
09:10 5 are planning to pursue such a defense, we intend to move to  
09:10 6 exclude it.

09:10 7 THE COURT: Okay.

09:10 8 Mr. Steward, in terms of motions.

09:10 9 MR. STEWARD: At this point, Your Honor, severance  
09:10 10 of the counts as dissimilar. And I am looking at another  
09:10 11 Motion to Dismiss, but I don't want to say anything more  
09:10 12 than that because I need to further investigate the facts  
09:10 13 behind it. I don't want to shoot my mouth off at this point  
09:10 14 without significant facts. I have it sort of sketched out  
09:10 15 in my mind. It would involve Mr. Stolper, Mr. Sagel, and  
09:11 16 perhaps others. That's all I can say at this point.

09:11 17 THE COURT: That's fine.

09:11 18 Are there any other matters anyone would like to  
09:11 19 take up?

09:11 20 MR. ANDRE: Your Honor, this is Julian Andre.

09:11 21 One issue that I think will need to be addressed  
09:11 22 soon is the matter of reciprocal discovery. Mr. Avenatti  
09:11 23 and Mr. Steward actually are in a situation here where they  
09:11 24 have access to a much broader range of evidence and data  
09:11 25 than the government does. I mean, they have complete copies

09:11 1 of many of these devices, and they have more materials in  
09:11 2 these devices than what was provided to the government from  
09:11 3 the Privilege Review Team.

09:11 4 We think it's going to be critical here that the  
09:11 5 defense be required to produce reciprocal discovery in a  
09:11 6 timely manner. So what we would be requesting is that the  
09:11 7 Court set a deadline for that. We are thinking mid June  
09:12 8 would be appropriate. That would give the defense enough  
09:12 9 time to identify those materials.

09:12 10 THE COURT: I understand no reciprocal discovery  
09:12 11 has been provided at all by the defense. Is that accurate?

09:12 12 MR. ANDRE: That's accurate, Your Honor.

09:12 13 THE COURT: Mr. Steward, a deadline for --

09:12 14 MR. STEWARD: That's fine, Your Honor. Today I  
09:12 15 have none. By mid June, I think we can meet that deadline.

09:12 16 THE COURT: Why don't we say you will make  
09:12 17 reciprocal discovery no later than Friday, June 19. That  
09:12 18 will be reflected in the minutes.

09:12 19 Anything else?

09:12 20 MR. ANDRE: Nothing from the government at this  
09:12 21 time, Your Honor.

09:12 22 MR. STEWARD: Nothing from the defense, Your  
09:12 23 Honor.

09:12 24 THE COURT: Okay. Very good. Thank you.

09:12 25 MR. ANDRE: Thank you.

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MR. STEWARD: Thank you.

(Whereupon, the proceedings were concluded.)

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CERTIFICATE

I hereby certify that pursuant to Section 753,  
Title 28, United States Code, the foregoing is a true and  
correct transcript of the stenographically reported  
proceedings held in the above-entitled matter and that the  
transcript page format is in conformance with the  
regulations of the Judicial Conference of the United States.

Date: May 26, 2020

/s/ Sharon A. Seffens 5/26/20

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SHARON A. SEFFENS, U.S. COURT REPORTER